

Exhibit 1 – Affidavit by James Barton
Plaintiffs Motion for Preliminary Injunction and
Preliminary Mandatory Injunction

Affidavit

BEFORE ME, the undersigned Notary, Wendy L. Seymour
[name of Notary before whom affidavit is sworn], on this 3rd day of March, 2008, personally appeared James Barton, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

I have reviewed the below listed documents at the request of Steven Pollack, executive director of the Blue Eco Legal Council, and can offer the following opinions based upon my experience and training as a U.S. Navy Small Arms Instructor for 6 years. A Small Arms Operator for 8 years, and as an Explosive Ordnance Disposal technician of 10 years:

1. It is unlikely the U.S. Coast Guard could feasibly recover the bullets it discharges during live-fire training it conducts over open water.
2. Non-lead alternatives to lead bullets, while costing more, are commercially available in a wide variety of calibers including shotgun munitions.
3. While a properly constructed and maintained bullet impact berm diminishes the number of bullets entering into the designated bullet "trap" or "Danger Zone" beyond the berm, it cannot eliminate bullets missing it or ricocheting off it.
4. Even the highest and best maintained bullet impact berm loses effectiveness in direct proportion to the distance the shooter is from the berm, and the type of shooting being undertaken; i.e. more bullets from a shooter using a revolver at the three yard firing line will be captured by a 14ft tall berm than a shooter firing a submachine gun at the fifty yard firing line.
5. Based upon the lakeside location of the bullet impact berm at the FBI Firearms Training Facility in North Chicago, IL, the orientation of fire towards Lake Michigan, and a review of the documents below,
 - a. Lake Michigan is being impacted by rounds missing or ricocheting off the impact berm during firearms training;
 - b. this range cannot operate as designed without discharging bullets into Lake Michigan; and
 - c. the shotgun range at the edge of the bluff is designed to discharge directly into Lake Michigan.
6. Based upon a review of the record, albeit incomplete without a review of range manifests and ammunition magazine records kept as a matter of course by the Navy and FBI, it is highly probable a significant accumulation of lead exists on the lakebed from training over 90 years at the North Chicago facility, including earlier periods when no berms were used.
7. Training with side arms, shotguns, fully automatic weapons, and sniper fire, can feasibly be conducted at other existing civilian and military ranges which do not use Lake Michigan as a bullet trap.

Documents Reviewed

Author	Document	Complaint Exhibit
U.S. Coast Guard	Location and Number of Rounds Discharged During Live Fire Training between Jan. 19, 2006 and Sept. 12, 2006	A
U.S. EPA	Best Management Practices for Lead at Outdoor Shooting Ranges	B
Real Estate Appraisal on Behalf of FBI	Real Estate Appraisal and Related Studies of FBI Firearms Training Facility in North Chicago, Illinois as of April 25, 1986	G
Globexplorer.com	Satellite Image; FBI Firearms Training Facility in North Chicago, IL	H
33 C.F.R. § 334.830 (and NOAA)	Lake Michigan; small-arms range adjacent to United States Naval Training Center, Great Lakes, Ill. (including accompanying Coast Pilot Map)	J
United States Library of Congress	Historic training images, North Chicago facility	--

EXPERT PRESENTATIONS AND TESTIMONY

- Steering Committee Member, *First International Conference on Sea Dumped Munitions*, Halifax, Nova Scotia (Oct., 2007)
- Session Chair, *Shipwrecks in the Baltic Sea*, US/Baltic International Symposium, Klaipeda, Lithuania (May, 2006)
- Developer, *Underwater demining protocol for Bosnia/Herzegovina* (Nov., 2005)
- Project Manager, *Radiological, Chemical, and Environmental Health Assessment of the Marine Resources of the Isla de Vieques Bombing Range*, Bahia Salina del Sur, Puerto Rico (Mar., 2004)
- Subject Matter Expert, Abandoned Underwater Ordnance, Address to the Presidential Panel Investigating the Vieques Island Bombing Range (Aug., 1999)

EXPERT QUALIFICATIONS**U.S. Navy - Small Arms Marksmanship Instructor (SAMI) –Qualified**

- Perform specific duties as a Small Arms Marksmanship Instructor for EOD unit.
- Conduct training in all phases of basic marksmanship, both ashore and afloat
 - Firearms safety
 - Mechanical training on small arms

- Instructional and qualification firing
- Basic range operations, records and reports
- Performs preventive maintenance on small arms

U.S. Navy - Ammunition Administration

U.S. Navy - Explosives Ordnance Disposal Expert (EOD) – Qualified

- 1989 – 1999 - US Naval Explosive Ordnance Disposal Mobile Unit Two, Norfolk, VA.
- 1975-1977 – U.S. Naval Explosive Ordnance Disposal Mobile Unit One, Hawaii

TRAINING

GENERAL JOB DESCRIPTION

BARTON, JAMES V. BM1 (EOD/SW/AW/DV/PJ)

US NAVY BOATSWAIN MATE FIRST CLASS (E-6), RETIRED, HONORABLE,
REENTRY CODE RE-2, SERVICE CONNECTED DISABLED

Service dates: First entered military service May, 1974 Retired Jan, 1999

General Job Description for a Senior EOD Technician (NEC 5335):

Conducts and supervises detection, identification, render safe, evaluation, and disposal of explosive ordnance (surface and underwater), nuclear weapons, chemical munitions, and biological agents. Functions as a diving supervisor and demolition range supervisor.

General Job Description while stationed at EXPLOSIVE ORDNANCE DISPOSAL
MOBILE UNIT TWO, NAB LITTLE CREEK, NORFOLK, VA

1989-1994 and 1998-1999

“Mobile command which deploys detachments in Naval Task Groups (CVBG/ARG) to conduct explosive ordnance disposal, diving and demolition operations. ISIC for nine permanent shore based EOD detachments. U.S. Secret Service VIP Protection.

General Job description while stationed at EXPLOSIVE ORDNANCE DISPOSAL
TRAINING AND EVALUATION UNIT TWO, Fort Story, VA 1994-1998

“Provides advanced, specialized, predeployment and high risk training to EOD Mobile, Mine Counter Measure and shore based detachments. Evaluates new EOD equipment and procedures. Assists in the development and evaluation of EOD tactics”.

SMALL ARMS/AMMUNITION ADMIN/HE STORAGE

“SMALL ARMS INSTRUCTOR COURSE” (J-041-0148) 06 May 1993

Department of the Navy FLEET TRAINING GROUP DETACHMENT NORFOLK

NAVY ENLISTED CLASSIFICATION PRIMARY CODE (NEC 0812).

This became my primary NEC until my retirement in 1999.

DESCRIPTION: Performs specific duties as a Small Arms Marksmanship Instructor. Conducts training in all phases of basic marksmanship, both ashore and afloat, including firearms safety, mechanical training on small arms, instructional and qualification firing, basic range operations, records and reports. Performs preventive maintenance on small arms.

“AMMUNITION ADMINISTRATION” Course Of Instruction (COI)
(J-041-0103) August 1989, FCTC DAM NECK

DESCRIPTION: To train personnel assigned to ammunition administration duties to requisition and turn-in ammunition and ammunition components, prepare and maintain ammunition records, and to prepare ammunition transaction reports. The students learn the various methods specified for requisitioning munitions, including special requirements for certain categories of munitions, as well as document preparation for turn-in of ammunition and ammunition components. They learn proper procedures for maintaining stock records of munitions by actually preparing and maintaining a model ammunition ledger, and becomes skilled in preparation of ammunition transaction reports for the various types of transactions.

“SMALL ARMS OPERATOR” (2303) 91 APR 09 NAVEDTRA43171-2BQ1
EXPLOSIVE ORDNANCE DISPOSAL MOBILE UNIT TWO, NAB LITTLE CREEK
QUALIFIED “EXPERT” 45 CAL PISTOL AND M16 RIFLE
QUALIFIED .38 Caliber Revolver
QUALIFIED .45 Caliber Pistol
QUALIFIED M14 Rifle
QUALIFIED M16 Rifle
QUALIFIED 12 Gauge shotgun
QUALIFIED M-60 MACHINE GUN
M-203 GRENADE LAUNCHER
M-79 GRENADE LAUNCHER

“AUTHORIZATION TO CARRY FIREARMS” (OPNAV Form 5512/2), and
“USE OF DEADLY FORCE” 03 JUN 93 DEPARTMENT OF THE NAVY
EXPLOSIVE ORDNANCE DISPOSAL MOBILE UNIT TWO, NAB LITTLE
CREEK, NORFOLK, VA

“US SECRET SERVICE TRAINING” 30 JAN 90
EODMU TWO, NAB LCREEK NORVA

“REAR AREA SECURITY TACTICS” (COI) 23RD day of April, 1993

UNITED STATES MARINE CORPS LANDING FORCE TRAINING COMMAND
NAVAL SURFACE FORCE UNITED STATES ATLANTIC FLEET

“EXPLOSIVE DRIVER” Card Number MU2- 107 Issued 07 JUL 93
Name and Location of Issuing Unit EODMU-2 NAB, L.CREEK,NORVA

The following MASTER EXPLOSIVE ORDNANCE DISPOSAL (EOD)
PERSONNEL QUALIFICATION STANDARDS were entered in BM1 Barton’s
service record on Oct 6, 1997:

DEMOLITION RANGE AND AMMUNITION MANAGEMENT SUPERVISOR
UNDERWATER OPERATIONS SUPERVISOR
SURFACE ORDNANCE OPERATION SUPERVISOR
IMPROVISED EXPLOSIVE DEVICE SUPERVISOR
IMPROVISED NUCLEAR DEVICE SUPERVISOR
NUCLEAR ACCIDENT OPERATION SUPERVISOR
CHEMICAL BIOLOGICAL OPERATION SUPERVISOR
FUEL/OXIDIZER (TORPEDO FUEL) SUPERVISOR

INSTRUCTOR CERTIFICATIONS

“MASTER TRAINING SPECIALIST” (COI) OCT 1996
while serving at EXPLOSIVE ORDNANCE DISPOSAL TRAINING AND
EVALUATION UNIT TWO, Fort Story, VA Recommended by the Command MTS
Board and authorized by The Chief of Naval Education and Training

“TASKED BASED CURRICULUM DEVELOPMENT” (COI) 09 MAY 96
Department of the Navy while serving at EXPLOSIVE ORDNANCE DISPOSAL
TRAINING AND EVALUATION UNIT TWO, Fort Story, VA

“CERTIFIED HIGH RISK INSTRUCTOR” 25 Sept 95 EXPLOSIVE ORDNANCE
DISPOSAL TRAINING AND EVALUATION UNIT TWO, Fort Story, VA

“PRACTICAL AREA INSTRUCTOR CERTIFICATION” 25 Sept 95
EXPLOSIVE ORDNANCE DISPOSAL TRAINING AND EVALUATION UNIT
TWO, Fort Story, VA

“CLASSROOM INSTRUCTOR CERTIFICATION” 25 Sept 95
EXPLOSIVE ORDNANCE DISPOSAL TRAINING AND EVALUATION UNIT
TWO, Fort Story, VA

“INSTRUCTOR TRAINING” (A-912-0011) November 3, 1994
Department of the Navy Fleet Training Center – Norfolk, Virginia

“SMALL ARMS INSTRUCTOR COURSE” (J-041-0148) 06 May 1993
Department of the Navy FLEET TRAINING GROUP DETACHMENT NORFOLK

“HELICOPTER ROPE SUSPENSION TRAINING MASTER” (HRST)
APR 15 1992 Rappel/FastRope and Special Patrol Insertion Extraction (S.P.I.E.)
DEPARTMENT OF THE NAVY EXPLOSIVE ORDNANCE DISPOSAL MOBILE
UNIT TWO, NAB LITTLE CREEK NORFOLK, VIRGINIA

SECURITY CLEARANCE AND RELATED INFO

“SECURITY CLEARANCE” SECRET
980401 S/BI/DIS/880930 CASE CONTROL NO. 88195-DR7-0553-1R3

“CERTIFICATION FOR ACCESS TO RESTRICTED DATA/CRITICAL NUCLEAR WEAPONS DESIGN INFORMATION” (RD/CNWDI) 25 Oct 95
Granted on the basis of a completed Background Investigation (900625).
DESCRIPTION: 1. Restricted Data (RD) is that information concerning, the design, manufacture, or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in production of energy. 2. Critical Nuclear Weapon Design Information (CNWDI) is that TOP SECRET or SECRET RD revealing the theory of operation or design of the components of a thermonuclear or implosion-type fission bomb, warhead, demolition munition or test device.

Maintained **“NUCLEAR REGULATORY LICENSE #19-0464A-T1NP”** 1995-1998
EXPLOSIVE ORDNANCE DISPOSAL TRAINING AND EVALUATION UNIT
TWO, Fort Story, VA

“COMMUNICATIONS SECURITY MATERIAL SYSTEM” (CMS) JAN 5, 1995
(CRYPTOGRAPHIC HARDWARE) CHIEF OF NAVAL EDUCATION AND
TRAINING EXPLOSIVE ORDNANCE DISPOSAL TRAINING AND
EVALUATION UNIT TWO, Fort Story, VA

Designated **“COMMUNICATIONS SECURITY MATERIAL SYSTEM CUSTODIAN”** JAN 5, 1995 (CRYPTOGRAPHIC HARDWARE CUSTODIAN)
EXPLOSIVE ORDNANCE DISPOSAL TRAINING AND EVALUATION UNIT
TWO, Fort Story, VA

SPECIFIC RELATED ASSIGNMENTS AND ACHIEVEMENTS

SMALL ARMS/RANGE MANAGEMENT:

[Assistant Ammunition Administration Officer](#), for EODMUTWO from Sept 89-April 90 Responsible for the administration and issuing of all ammunition and explosive materials ordered and expended by EODMUTWO, NAB L.CREEK

[Performed Small Arms Instruction](#) for US military and foreign personnel in Souda Bay, Crete, off the fan tail of numerous ships underway, at land based US military ranges, and at civilian ranges (when military ranges were booked) which included use of the M-60 machine gun.

Researched, designed, and supervised the construction of [“portable small arms magazines”](#) in support of an EODMUTWO mission to accompany President Bush’s US Secret Service Detail to Columbia in 1990; outfitted the team with weapons, ammo, custom bullet proof vests, and related tactical equipment.

[Conducted numerous US Secret Service support missions](#); including the Bosnian/Serbia peace talks, Israel/Palestinian peace talks, Presidential visits to the United Nations and elsewhere, and various visits by foreign dignitaries.

[Ranked number 1 of 14](#) students completing Small Arms Instructor COI

[Qualified to join the US Navy competitive shooting team](#) (using the M14).

UNDERWATER RANGE CLEARANCE/DIVING OPERATIONS:

[Performed underwater ordnance clearance operations](#) of chemical weapons from the Chesapeake Bay (Aberdeen Proving Grounds), conventional weapons from Patuxent River, MD. (Naval Air Station Patuxent River), and has either recovered, located, surveyed, or destroyed, unexploded munitions in Lake Michigan (Michigan Department of Environmental Quality), Vieques Island, Puerto Rico (Departamento de Justicia), Oahu, Hawaii (EODMUONE), Jackson Park Housing Project in Bremerton, Washington (Foster Wheeler), Adak, Alaska (Environmental Chemical Corporation), the Virginia Capes, Chesapeake Beach, Maryland (Naval Research Center), and San Clemente Island, California.

[Conducted numerous mine recovery “clean up” missions](#), after the mine exercise “participants” failed to successfully recover their assigned targets.

Selected by the US Naval Safety Center, to provide consultation pertaining to accident investigations involving EOD's non-magnetic, self contained, closed circuit, mixed gas, underwater breathing apparatus (MK16 UBA).

Conducted "SPECIAL OPERATIONS" in the Caribbean, (SPECOPS Det 32) 90MAY1-JUN30 at request of the UNITED STATES COAST GUARD. Evidence collected lead directly to the arrest of three individuals in Miami, FL. Was hand picked for the job based on the intensive nature of diving involved.

"Readiness Assist Team" April 1996 Part of a two man team providing evaluation and training to combined U.S. and German Mine Countermeasure forces during "Unified Spirit Phase II" Marine Corps Base CAMP LEJEUNE, North Carolina

Qualified "SURFACE WARFARE" Specialist 14 July 1991

Qualified "AIR WARFARE" Specialist 7 Jun 1992

Volunteered to assist the COMMONWEALTH ATTORNEYS OFFICE (Norfolk, VA) to evaluate and upgrade the security system controlling access to the "Records Room"

"LETTER OF APPRECIATION" 17 Oct 97

DEPARTMENT OF THE NAVY PROGRAM EXECUTIVE OFFICE MINE WARFARE Excerpts:

2. During the revision to the MK 16 MOD O UBA Operations and Maintenance Manual, BM1 Barton provided an emergency procedure for a stricken diver which the Supervisor of Diving approved.

4. BM1 Barton always went that extra distance to provide his input in a well thought out and documented manner. Congratulations and thanks for a job "well done." CY S. TANDY Program Executive Officer, Mine Warfare

AWARDED THE FOLLOWING MEDALS:

SOUTHWEST ASIA CAMPAIGN MEDAL 15JAN1991

"OPERATION DESERT SHIELD"

SOUTHWEST ASIA CAMPAIGN MEDAL W/BRONZE STAR 17JAN91-23MAY91

"OPERATION DESERT STORM"

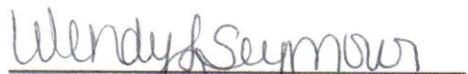
KUWAIT LIBERATION MEDAL 17 JAN91-23MAY91


[signature of affiant]

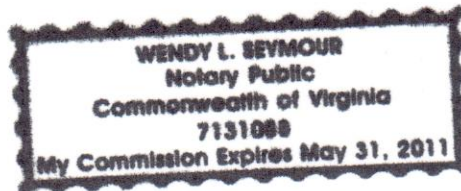
James Barton, President
Underwater Ordnance Recovery, Inc
P.O. Box 14003
Norfolk, VA 23518
757-451-8545
jamesbarton@uwuxo.com

Subscribed and sworn to before me, this 3rd [day of month] day of March [month],
20 08.

[Notary Seal:]


[signature of Notary]

Wendy L. Seymour
[typed name of Notary]



NOTARY PUBLIC

My commission expires: May 31, 20 11.